

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

CHANDLE DEAN SELVEY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. CIV-14-1173-D
	)	
STRIDER ESTEP, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**ORDER**

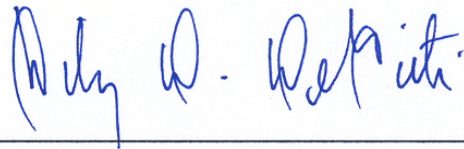
This matter is before the Court for review of the Report and Recommendation issued by United States Magistrate Judge Shon T. Erwin pursuant to 28 U.S.C. § 636(b)(1)(B). Upon initial screening of the Civil Rights Complaint, Judge Erwin recommends the dismissal of Plaintiff's claims pursuant to 28 U.S.C. § 1915(e)(2)(B) and § 1915A(b) for failure to state a claim upon which relief can be granted. Judge Erwin finds that Plaintiff asserts in Counts I and III of the Complaint claims that would necessarily imply the invalidity of his criminal conviction and are premature under *Heck v. Humphrey*, 512 U.S. 477 (1994), that Count II is barred by the doctrine of absolute judicial immunity, and that Count IV asserts a § 1983 claim against a defendant who was not acting under color of state law.

Plaintiff has not filed a timely written objection or requested an extension of time to object, even though he was advised of his rights and the consequences of failing to object. The Court finds that Plaintiff has waived further review of all factual and legal issues addressed in the Report. *See United States v. 2121 East 30th Street*, 73 F.3d 1057, 1060 (10th Cir. 1996); *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991). Further, the

Court fully concurs in Judge Erwin's analysis and finds that the Complaint fails to state a claim upon which relief can be granted. For these reasons, the Court finds that the Complaint should be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and § 1915A(b).

IT IS THEREFORE ORDERED that the Report and Recommendation [Doc. No. 7] is ADOPTED. This action is DISMISSED for failure to state a claim on which relief can be granted. The dismissal is without prejudice to refiling with respect to Counts I and III of the Complaint, and with prejudice as to Counts II and IV. Judgment shall be entered accordingly.

IT IS SO ORDERED this 4<sup>th</sup> day of June, 2015.



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TIMOTHY D. DEGIUSTI  
UNITED STATES DISTRICT JUDGE